



BILLING CODE: 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-070]

#### **Rubber Bands from the People's Republic of China: Final Affirmative Countervailing Duty Determination**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of rubber bands from the People's Republic of China (China) for the period of investigation (POI) January 1, 2017, through December 31, 2017.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Kristen Johnson, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4793.

#### **SUPPLEMENTARY INFORMATION:**

##### *Background*

This final determination is made in accordance with section 705 of the Tariff Act of 1930, as amended (the Act). The petitioner in this investigation is Alliance Rubber Co. The mandatory respondents in this investigation are Graceful Imp. & Exp. Co., Ltd. (Graceful), Moyoung Trading Co., Ltd. (Moyoung), and Ningbo Syloon Imp & Exp Co., Ltd. (Ningbo).

Neither the mandatory respondents nor the Government of China (GOC) responded to our requests for information in this investigation.

We published the *Preliminary Determination* on July 9, 2018,<sup>1</sup> and the *Preliminary Critical Circumstances and Amended Scope* on September 6, 2018.<sup>2</sup> We invited interested parties to comment on the preliminary determinations. We received scope comments from certain interested parties.

#### *Period of Investigation*

The POI is January 1, 2017, through December 31, 2017.

#### *Scope Comments*

We invited parties to comment on Commerce's Preliminary Scope Memorandum, and the changes made to the scope of the investigation therein.<sup>3</sup> We have reviewed the briefs submitted by interested parties, considered the arguments therein, but have not made further changes to the scope of the investigation beyond those incorporated in the *Preliminary Critical Circumstances and Amended Scope*. For further discussion, see Commerce's Final Scope Decision Memorandum.<sup>4</sup>

#### *Scope of the Investigation*

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<sup>1</sup> See *Rubber Bands from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination*, 83 FR 31729 (July 9, 2018) (*Preliminary Determination*), and accompanying Preliminary Determination Memorandum (PDM).

<sup>2</sup> See *Rubber Bands from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances, in Part, in the Countervailing Duty Investigation, and Amendment to the Scope of the Preliminary Determination in the Countervailing Duty Investigation*, 83 FR 45217 (September 6, 2018) (*Preliminary Critical Circumstances and Amended Scope*).

<sup>3</sup> See Memorandum, "Rubber Bands from the People's Republic of China and Thailand: Scope Comments Decision Memorandum for the Preliminary Antidumping Duty and Countervailing Duty Determinations," dated August 29, 2018 (Preliminary Scope Memorandum).

<sup>4</sup> See Memorandum, "Rubber Bands from the People's Republic of China and Thailand: Scope Decision Memorandum for the Final Antidumping Duty and Countervailing Duty Determinations," dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

The products covered by this investigation are rubber bands from China. For a complete description of the scope of this investigation, see the Appendix to this notice.

*Analysis of Subsidy Programs - Adverse Facts Available*

For purposes of this final determination, we relied solely on facts otherwise available because neither the GOC nor any of the selected mandatory respondents participated in this investigation.<sup>5</sup> Further, because the mandatory respondents and the GOC did not cooperate to the best of their abilities in responding to our requests for information in this investigation, we drew adverse inferences in selecting from among the facts otherwise available, in accordance with sections 776(a)-(b) of the Act. Therefore, consistent with the *Preliminary Determination*, we continue to apply adverse facts available (AFA) to Graceful, Moyoung, and Ningbo Syloon. No interested party submitted comments on Commerce's preliminary determination to apply AFA. Thus, we made no changes to the subsidy rate for the mandatory respondents for this final determination. A detailed discussion of our application of AFA was provided in the *Preliminary Determination*.<sup>6</sup>

*All-Others Rate*

As discussed in the *Preliminary Determination*, Commerce based the selection of the all-others rate on the countervailable subsidy rate established for the mandatory respondents, in accordance with section 705(c)(5)(A)(ii) of the Act.<sup>7</sup> We made no changes to the selection of the all-others rate for this final determination.

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<sup>5</sup> See sections 776(a)(1) and (2) of the Act.

<sup>6</sup> See *Preliminary Determination* PDM at Use of Facts Otherwise Available and Adverse Inferences.

<sup>7</sup> See *Preliminary Determination*, 83 FR at 31730.

*Final Affirmative Determination of Critical Circumstances, in Part*

As noted above, the mandatory respondents did not participate in this investigation, and no interested party submitted comments on critical circumstances. Because Graceful, Moyoung, and Ningbo Syloon did not cooperate to the best of their abilities in this investigation, we continue to determine that it is appropriate to apply AFA, in accordance with sections 776(a)-(b) of the Act, with respect to critical circumstances.

We are making the inconsistency determination with regard to the “Export Assistance Grants” program, which had the lowest rate in the *Preliminary Determination* among the programs alleged to be inconsistent with the Subsidies and Countervailing Measures Agreement (SCM Agreement).<sup>8</sup> In so doing, we limit the corresponding offset to the dumping margin in the companion antidumping duty investigation, which best fulfills our statutory mandate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully,”<sup>9</sup> and induce future cooperation by companies in investigations where the petitioners allege the existence of programs potentially inconsistent with the SCM Agreement.

Because we find that the “Export Assistance Grants” program is export contingent, we determine that the criterion under section 705(a)(2)(A) of the Act has been met. In addition, for the purposes of the “massive imports” analysis, we continue to find, pursuant to section 776(b) of the Act, that the mandatory respondents shipped rubber bands in “massive” quantities during the comparison period, thereby fulfilling the criteria under section 705(a)(2)(B) of the Act. Consequently, pursuant to section 705(a)(2) of the Act, Commerce determines that critical

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<sup>8</sup> See *Preliminary Determination* PDM at 10-11 and Appendix.

<sup>9</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994) at 870.

circumstances exist for imports of rubber bands from China for Graceful, Moyoung, and Ningbo Syloon.

Commerce, however, determines that critical circumstances do not exist with respect to all other producers or exporters of rubber bands from China because there was not a massive increase in imports, as defined by 19 CFR 351.206(h)(2). For further information on Commerce's critical circumstances analysis, see the *Preliminary Critical Circumstances and Amended Scope*.<sup>10</sup>

#### *Final Determination*

Commerce determines that the following estimated countervailable subsidy rates exist:

<b>Company</b>	<b>Subsidy Rate (percent)</b>
Graceful Imp. & Exp. Co., Ltd.	125.77 percent
Moyoung Trading Co., Ltd.	125.77 percent
Ningbo Syloon Imp & Exp Co., Ltd.	125.77 percent
All-Others	125.77 percent

#### *Disclosure*

We described the subsidy rate calculations, which were based on AFA, in the *Preliminary Determination*.<sup>11</sup> As noted above, there are no changes to the calculations. Thus, no additional disclosure is necessary for this final determination.

#### *Continuation of Suspension of Liquidation*

As a result of our affirmative *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of rubber bands from China that were entered or withdrawn from warehouse, for

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<sup>10</sup> See *Preliminary Critical Circumstances and Amended Scope*, 83 FR at 45218-19.

<sup>11</sup> See *Preliminary Determination* PDM at Appendix – AFA Rate Calculation.

consumption, on or after July 9, 2018, the date of publication of the *Preliminary Determination* in the *Federal Register*.<sup>12</sup> Subsequently, we issued our affirmative *Preliminary Critical Circumstances and Amended Scope* and, pursuant to section 703(e)(2)(A) of the Act, we instructed CBP to suspend liquidation, with regard to Graceful, Moyoung, and Ningbo Syloon, of any unliquidated entries of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after April 10, 2018, which is 90 days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*.<sup>13</sup>

Additionally, in accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, for consumption on or after November 6, 2018. We also instructed CBP to continue to suspend liquidation on all shipments from all other producers or exporters entered, or withdrawn from warehouse, for consumption made during the period July 9, 2018, through November 5, 2018, until the conclusion of this investigation. For Graceful, Moyoung, and Ningbo Syloon, we instructed CBP to continue to suspend liquidation on all shipments entered, or withdrawn from warehouse, for consumption made during the period April 10, 2018, through November 5, 2018, until the conclusion of this investigation.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded or canceled.

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<sup>12</sup> See *Preliminary Determination*, 83 FR at 31729.

<sup>13</sup> See *Preliminary Critical Circumstances and Amended Scope*, 83 FR at 45219-20.

### *ITC Notification*

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its determination. In addition, Commerce will make available to the ITC all non-privileged and non-proprietary information relating to this investigation. Commerce will allow the ITC access to all privileged and business proprietary information in the files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

### *Notification Regarding APOs*

This notice serves as a reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or, alternatively, conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

### *Notification to Interested Parties*

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: November 13, 2018.

**Gary Taverman,**

*Deputy Assistant Secretary*

*for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance.*

## **Appendix**

### **Scope of the Investigation**

The products subject to this investigation are bands made of vulcanized rubber, with a flat length, as actually measured end-to-end by the band lying flat, no less than ½ inch and no greater than 10 inches; with a width, which measures the dimension perpendicular to the length, actually of at least 3/64 inch and no greater than 2 inches; and a wall thickness actually from 0.020 inch to 0.125 inch. Vulcanized rubber has been chemically processed into a more durable material by the addition of sulfur or other equivalent curatives or accelerators. Subject products are included regardless of color or inclusion of printed material on the rubber band's surface, including but not limited to, rubber bands with printing on them, such as a product name, advertising, or slogan, and printed material (*e.g.*, a tag) fastened to the rubber band by an adhesive or another temporary type of connection. The scope includes vulcanized rubber bands which are contained or otherwise exist in various forms and packages, such as, without limitation, vulcanized rubber bands included within a desk accessory set or other type of set or package, and vulcanized rubber band balls. The scope excludes products that consist of an elastomer loop and durable tag all-in-one, and bands that are being used at the time of import to fasten an imported product.

Excluded from the scope of this investigation are vulcanized rubber bands of various sizes with arrow shaped rubber protrusions from the outer diameter that exceeds at the anchor point a wall thickness of 0.125 inches and where the protrusion is used to loop around, secure and lock in place.

Excluded from the scope of this investigation are yarn/fabric-covered vulcanized rubber hair bands, regardless of size.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 4016.99.3510. Merchandise covered by the scope may also enter under HTSUS subheading 4016.99.6050. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

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